

असाधारण , EXTRAORDINARY

भाग II—चण्ड 2 PART II—Section 2

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

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NEW DELHI, FRIDAY, AUGUST 12, 1983/SRAVANA 21, 1905

इस भाग में भिन्न पृष्ठ संस्था वो जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 12th August, 1983:—

BILL No. 61 of 1983

A Bill to provide for prohibition on employment of children.

BE it enacted by Parliament in the Thirty-fourth year of the Republic of India as follows:—

- 1. (1) This Act may be called the Prohibition on Children's Employment Act, 1983.
 - (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. Notwithstanding anything contained in any other law for the time being inforce, no industrial establishment, whether in organised sector or unorganised sector of industry, shall employ any child below the age of fifteen years.

3. The employment of any child in contravention of the provisions of section 2 shall be punishable with imprisonment which may extend to one year or with fine which may extend to three thousand rupees, or with both.

Short title, extent and com, mencement.

Prohibition on employment of children below fifteen years.

Punishment for employing children. Police to take cognizance of offence committed.

- 4. The police shall take cognizance of any offence committed under section 2, either by itself or on a report received from any citizen, and, under due process of law, get the child released from the industrial establishment where he is employed
- Central or State Welfare Board to arrange for the education of the child released from em ploy-] ment.
- 5. After securing the release of a child from employment under section 4, the police shall report the case to any welfare body attached to the Central Social Welfare Board or a State Social Welfare Board who shall arrange for admission of the child so released in an educational or vocational training institution.

- Power to frame rules.
- 6. The Central Government shall frame rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Child labour is widely prevalent in India. According to 1971 Census there were 10.7 million child workers of less than 15 years in the country representing about 6 per cent. of the total labour force. Of these about 7.9 million were boys and 2.8 million girls.

Abject poverty is the root cause of child labour. Driven by poverty parents send their children to work, whether such employment is in an organized industry or unorganized industry. Unscrupulous employers subject the children to deplorable working conditions, excessive hours of work, low wage, etc. Children of very tender age are found working particularly in industries such as match box making, hand loom, beedi, fishing, hotels and petty repair works. Some of them age engage in hazardous industries like the fire works establishments at Sivakasi in Tamil Nadu. Such a widely prevalent practice of employing child labour and exploiting children should be put a stop to. The persons exploiting child labour should be prosecuted and children released from the clutches of unscrupulous employers should be sent to schools with the help of social welfare bodies.

Hence this Bill.

New Delhi; April 4, 1983. K. LAKKAPPA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Act. These rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

BILL No. 60 OF 1983

A Bill to provide for reservation for women in posts or appointments in services under the control of the Central Government.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

- r. (1) This Act may be called the Reservation of Posts for Women in Government Services Act, 1983.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. Twenty-five per cent of posts or appointments in services under the control of the Central Government, including those in public undertakings, government companies, semi-government organisations and organisations which are owned or aided or controlled by the Central Government in any way, shall be reserved for women candidates and shall be filled up from amongst them.

Reserva tion of posts for women.

Short

title

and com-

mence-

ment.

Unemployment is an acute problem for the youth, both men and women, and a total structural reform is needed for its solution. So long as that is not done, this problem is bound to increase. At the same time constant endeavour is necessary for lessening the problem even within the present structure. Urgent steps are necessary for that.

In the existing situation a most disturbing situation is the declining trend in women's employment. This declining trend in organised industry and many other spheres was witnessed in the fifties. During the International Women's Year in the seventies this problem was particularly emphasized by the women's organisations. But the situation still is extremely unsatisfactory. The three consecutive census figures are revealing indicators. In 1961 census the percentage of women in the total workforce was 28 per cent. This itself was far less than the 1951 census. But in 1971 census it was found to be only 14.2 per cent. Though in the 1981 census the figure is 20.85 per cent, it can be seen that it is much less than that of the 1961 census, not to speak of the 1951 census. It is well-known that the women have been practically driven out from traditional organised industries, such as jute, textile, coal, etc. Their entry into other industries has not at all compensated the loss.

Moreover, women are facing retrenchment in a big way. A couple of years ago 50,000 women were retrenched from match industry only in one State. Now women in tobacco industry are facing large scale retrenchment. Even public sector undertakings, such as Coal India, are diminishing the number of women employees on one pretext or the other. The situation in the agricultural field is no better. The number of women cultivators was 31.8 million in 1961, but in 1981 this figure dwindled to 15.1 million. It is true that the number of women in the offices and in the eld of education has somewhat increased and that is creating an illusion among a section of the public that women are getting better share of jobs. But compared to the total women population needing work, the number of employed women is still insignificant.

In fact that attitude of the society towards women's employment still is that they are not bread-earners, their employment is only for a subsidiary income for the family. But in actual practice today women are the bread-earners of the family and in many/cases even the sole bread-winners. In the family their income is an essential factor for the subsistence of the family.

Since Government of India is the largest employer, they should set the pace and make other sectors in industry and services follow suit. But without an ex-Press legislative direction the situation cannot be improved.

Therefore, in this Bill, it is suggested that 25 per cent of all the jobs, in public sector industry, in Government services and in educational institutions should be reserved for women.

New Delhi; April 6, 1983. GEETA MUKHERJE E

BILL No. 82 of 1983

A Bill further to amend the Constitution of India.

Bg it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1983.

Short title and commencement.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
 - 2. In the Seventh Schedule to the Constitution,—
 - (i) in List II-State List, after entry 10, the following entry shall be inserted, namely:—

"11. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour."; and

(ii) in List III-Concurrent List, entry 25 shall be omitted.

Amendment of Seventh Schedule.-

The founding fathers of the Constitution included 'Education' in the State List after much deliberations. It continued to remain in the State List till 1975-76.

'Education', however, was transferred to Concurrent List by the enactment of the Constitution (Forty-second Amendment) Act, 1976 i.e. during the Emergency.

Although, by the Forty-fourth Amendment of the Constitution, certain undemocratic features introduced by the Forty-second Amendment were done away with, 'Education' continued to remain in the Concurrent List.

The democratic student and youth movement in our country, a wide segment of the educationists in our country and progressive public opinion have consistently held the view that 'Education' should be a State subject in order to enable the State Governments to formulate appropriate policies and programmes for the widest dessimination of education in keeping with the hopes and aspirations of the people of the States which alone can ensure the rapid' cultural development of the Indian people as a whole.

The Union Government have not shown adequate interest in the matter of spread of education. Although, the widest segments of the student and teaching community have demanded 10 per cent. allocations in the Plan expenditures for education, the actual allocation in the plans did never exceed .25 per cent. of the total Plan allocations. This reveals the apathy of the Plan framers towards education. Education admittedly is the key to the success of the Plan. It is all the more disturbing to note, that average per head expenditure on education by the Union Government comes to only 4 paise. West Bengal, which is genuinely interested in the spread as well as the improvement of standard of education, has made budgetary allocation for education for the year 1983-84 of Rs. 418 crores despite severe limitation of resources. This means expenditure of Rs. 73 per head on education in West Bengal.

In view of the above, the education should be reverted back to the State List, in tune with the federal spirit of the Constitution, and to correct the distortions caused by the Forty-second Amendment of the Constitution.

Hence this Bill.

New Delhi; June 27, 1983. CHITTA BASU

BILL No. 88 OF 1983

A Bill further to amend the Constitution of India,

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

- 1. This Act may be called the Constitution (Amendment) Act, 1983.
- 2. For article 324 of the Constitution, the following article shall be substituted, namely:—

"324(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution including elections to panchayats and other local bodies shall be vested in a Commission (referred to in this Constitution as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the Chief Election Commissioner may fix.

Short title.

Substitution of Article 324.

Superintendence, direction and control of elections to be vested in an election Commission,

- (3) When any other Election Commissioner isso appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission
- (4) Before each general election to the House of the People, the Legislative Assembly of each State and to local bodies including panchayats and before each biennial election to the Legislative Council of each State having such Council, the Chief Election Commissioner may appoint such number of Regional Commissioners, State Commissioners and District Election Officers as be may consider necessary to assist the Election Commission in the performance of its functions.

Insertion of new article 324-A etc. Appointment of Chief Election Commissioner.

- 3. After article 324, the following articles shall be inserted, namely:—
- "324A. The Chief Election Commissioner and other Election Commissioners, if any, shall be appointed by the President on the recommendation of a Committee consisting of all the Judges of the Supreme Court who shall select a person or persons, as the case may be for appointment as the Chief Election Commissioner and other Election Commissioners, if any, from amonst the sitting Judges of the High Courts and the retired Judges of the Supreme Court and the High Courts:

Provided that in the case of selection of an Election Commissioner, the Chief Election Commissioner shall be consulted.

Appointment of Regional Commissioners.

324B. The Regional Commissioners to be appointed by the Chief Election Commissioner shall be selected by the Committee of Supreme Court Judges, specified in article 324A, in consultation with the Chief Election Commissioner, from amongst the sitting and the retired Judges of the High Courts.

Appointment of State Commissioners,

324C. The State Commissioners to be appointed by the Chief Election Commissioner shall be selected by the respective Committees consisting of all the Judges of the respective High Courts of various States, in consultation with the Chief Election Commissioner, from amongst persons who have held the office of a District Judge in the respective State for at least fifteen years.

Appointment of District Election Officers.

324D. The District Election Officers to be appointed by the Chief Election Commissioner for every State shall be selected by a Committee, consisting of the Chief Election Commissioner, who shall preside over the Committee, the State Election Commissioner and the administrative Judge of the High Court of the respective State, from amongst persons who have held a judicial office in the respective State for at least ten years.

Oath by Election Commissioner. 324E. Every person appointed to be the Chief Election Commissioner, an Election Commissioner or a Regional Commissioner shall, before he enters upon his office, make an subscribe before the President or some person appointed in that behalf by him, an oath or affirmation according to the form set out in the Third Schedule for the Judges of the Supreme Court.

No further office for Election Commissioners.

324F. The Chief Election Commissioner or the Election Commissioner shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

324G. (1) The Chief Election Commissioner or any other Election Commissioner shall hold office for a term of six years from the date on which he enters upon his office.

Term of Chief Election Commis-; sioner and his removal.

- (2) The Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment.
- 324H. The Salary and other conditions of service of the Chief Election Commissioner and other Election Commissioners shall be such as specified in the Schedule to the Constitution in respect of the Chief Justice of India and other Judges of the Supreme Court respectively.

Salary other conditions of service of Chief Election Commissioner, etc.

324I. The salary and other condition of service and tenure of office of the Regional and the State Commissioners shall be such as the President may be rule determine in consultation with the Chief Election Commissioner.

Salary and other conditions of service of Regional and State Commissioners.

324J. (1) Appointments of officers and other employees of the Election Commission shall be made by the Chief Election Commissioner or such other Election Commissioner or officer of the Commission as he may direct.

Offices and employees of Commis sion.

(2) The conditions of service of District Election Officers and other officers and employees of the Election Commission shall be such as may be prescribed by rules made by the Chief Election Commissioner of by some other Election Commissioner or officer of the Commission authorised by the Chief Election Commissioner to make rules for the purpose:

Provided that the rules made under this clause shall so far as they relate to salaries allowances, leave or pensiins, require the approval of the President.

324K. The date for holding each election shall be fixed by the Election Commission on whose recommendation the President or the Governor, as the case may be, shall notify the date provided that if the Council of Ministers of the Union or a State, as the case may be, who have not lost confidence of the House may recommend dissolution of the House and ask for a snap poll, and in such a case the Commission shall hold the election on the basis of electoral rolls as existing on such date.

Date for holding elections.

324L. Every bye-election caused by death or resignation of a member of the Bye-House of the People or the Legislative Assembly or the Legislative Council of a election State shall be held within ninety days of the declaration of the vacancy, and in in ninety case it is not possible due to civil strife or any other reason, the Commission shall days. state in writing the reasons for extending the date and the date so extended whall be subject to the approval of the appropriate legislature.

324M. A report of the Election Commission shall be laid before each House of Parliament after every two years by the Union Minister of Law and the report shall be debated by the Houses.'

Laying of Report of Commission before Parliament.

The state of the s

There has been a great deal of debate with regard to the composition, authority and the powers of the Election Commission. The Election Commission as currently constituted has faced serious problems inspite of the fact that article 324 of the Constitution clearly confers on it the power of 'superintendence, direction; and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution'.

The Constitution has in fact left wide powers in the hands of the Executive which leaves much to be desired if the Election Commission or its subordinate agencies have to work without let or hindrance by the Executive.

The way election dates are manipulated, bye-elections are held or delayed in accordance to the wishes of the Executive or the manner in which preparation of electoral rolls become essentially an executive function in which the Commission has peripheral control, the manner in which polling parties are constituted under the control of the Executive and the manner in which the deployment of police force is made in the name of law and order and a variety of other functions which are executed by an apparatus in the name of the Commission leave much to be desired, if we want to have free and fair elections for a fuctioning parliamentary democracy to which we are wedded to establish.

It is, therefore, felt that the Constitution should be so amended as to make the Election Commission and agencies subordinate to it specific creatures of the Constitution itself and not leave it to the whims and fancies of either the Executive or the Legislature which in its turn has been enacting laws empowering the Executive to make rules and thereby inducting a dominant element of subordinate legislation thereby further diluting the capacity of the Election Commission to hold free and fair elections while also having the power to control executive overstepping or encoroaching in the functions which must necessarily be the sole preserve of the Commission.

Hence this Bill.

New Delhi; *July* 6, 1983

H. N. BAHUGUNA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that superintendence, direction and control for the preparation of electoral rolls for, and the conduct of, all elections including elections to local bodies and panchayats shall be vested in the Election Commission and the Chief Election Commissioner may appoint such number of Regional Commissioners, State Commissioners and District Election Officers as he may consider necessary to assist the Election Commission in the performance of its functions.

2. Clause 3 provides that-

- (i) the salary and other conditions of service of the Chief Election Commissioner and other Election Commissioners shall be such as are specified in the Second Schedule to the Constitution in respect of the Chief Justice of India and other Judges of the Supreme Court respectively;
- (ii) the salary and other conditions of service of the Regional and the State Commissioners shall be such as the President may be rule determine.

. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one crore per annum.

4. It is also likely to involve a non-recurring expenditure of about rupees twenty lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill [clause (2) of new article 324J] empowers the Chief Election Commissioner or some other Election Commissioner or officer of the Election Commission to make rules regarding the conditions of service of District Election Officers and other officers and employees of the Election Commission. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

Bill No. 89 of 1983

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:---

1. (1) This Act may be called the Constitution (Amendment) Act, 1983.

Short title and commence-

- (2) It shall come into force on such date as the Central Government ment. may, by notification of the Official Gazette, appoint.
- 2. In article 98 of the Constitution, in clause (3), the following proviso shall be added, namely: -

Amendment of article

98.

"Provided that such law shall be made by Parliament within three years of the commencement of the Constitution (Amendment) Act, 1983.''.

3. In article 187 of the Constitution, in clause (3), the following Amendproviso shall be added, namely:-

ment of article

Amend-

ment of article

309.

187.

"Provided that such law shall be made by the Legislature of the State within three years of the commencement of the Constitution (Amendment) Act, 1983.".

4. In article 309 of the Constitution, after the existing proviso, the following proviso shall be added at the end, namely:-

"Provided further that the appropriate Legislature shall make such law within three years of the commencement of the Constitution (Amendment) Act. 1983.".

Article 309 of the Constitution provides that the appropriate Legislature may frame Acts for regulating the recruitment and conditions of service of persons appointed in public services and posts in connection with the affairs of the Union or of any State. But till now no suitable legislation has been framed for regulating the recruitment, promotion and other conditions of service of all categories of Government servants including employees of Parliament and the State Legislatures. In the absence of proper legislation, the employees have been put to a great loss and the powers are being misused extensively by the authorities as the rules do not safeguard the rights and interests of the public servants adequately, properly and suitably. The public servants are at the mercy of the authorities in the absence of proper legislation.

In view of the above, it is desirable that suitable legislation as envisaged in article 309 of the Constitution be framed to regulate the service conditions of Government servants.

Hence this Bill.

NEW DELHI;

July 7, 1983.

A. U. AZMI.

AVTAR SINGH RIKHY, Secretary.